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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

OCT 14 2004

By  Luther S. Thomas, Clerk  
Deputy Clerk

IN RE: TRI-STATE CREMATORY  
LITIGATION

MDL DOCKET NO. 1467

This Affidavit relates ONLY to the  
Funeral Home Settlements.

AFFIDAVIT OF KIMBERLY K. NESS WITH RESPECT TO UNPAID CLAIMS

STATE OF MINNESOTA    }  
                                      } ss.:  
COUNTY OF RICE        }

Kimberly K. Ness, being duly sworn, deposes and says:

1. I am a Senior Project Administrator for Rust Consulting, Inc. ("Rust Consulting"). My business address is 201 South Lyndale Avenue, Faribault, Minnesota 55021. My telephone number is (507) 333-4567. I am over twenty-one years of age and authorized to make this declaration on behalf of Rust Consulting, Inc. and myself.

2. Rust Consulting specializes in class action notification and claims administration, including telephone support and direct mail services. Rust Consulting has provided claims administration services for class action settlements containing up to 7 million class members in cases involving insurance, securities, product liability, fraud, property, employment and civil rights.

3. Rust Consulting was engaged to provide claims processing services in the Partial Settlements of several funeral homes involved the Tri-State Crematory Litigation. Duties include: a) data entry of claims; b) review of claims for validity; c) mailing release

and W-9 forms; and d) making payments for valid claims.

4. Lieff, Cabraser, Heimann & Bernstein, LLP ("Plaintiffs' Lead Counsel") provided Rust Consulting with claim forms from persons identified as potential class members in the funeral home settlements.

5. Rust Consulting processed the claim forms by completing the data capture and initial review of the forms. Calculations were made according to the settlement agreement, in consultation with Plaintiffs' Lead Counsel. Rust Consulting made the initial calculations, and then forwarded the information to Plaintiffs' Lead Counsel for review.

6. Upon approval of the calculations, Rust Consulting mailed Confirmation letters to the claimants. Confirmation letters included an Affidavit, Indemnity & Release form, as well as a substitute W-9 form.

7. Claimants were instructed in the Confirmation letter to return the completed forms to Rust Consulting and included a fax number for response, as well as a mailing address.

8. Once the completed confirmations were received from all claimants per decedent, payments were prepared and mailed for the claimants with regard to that decedent.

9. Linda L Hamil and Joann Burcham submitted claim forms with regard to decedent Reed Moran Jr. in the Buckner-Rush Funeral Home Settlement. Confirmation letters were mailed to each of them on January 16, 2004. Ms. Hamil returned her Confirmation letter on January 23, 2004, and Ms. Burcham's was returned on January 21, 2004. On the returned Confirmation letter, Ms. Hamil disputed the claim of Ms.

Burcham, based on her next-of-kin status. Ms. Burcham's attorney was asked to provide a birth certificate, or adoption papers proving her relationship with the decedent on or around March 3, 2004 by Plaintiffs' Lead Counsel. Rust Consulting has not received the necessary documents to consider the claim for Ms. Burcham complete, and therefore, the claim continues to be held.

10. Carleton Andrew Chase McLain, submitted a claim form completed by Judy King, his legal guardian, with regard to decedent Tony McLain in the Buckner-Rush Funeral Home Settlement. A Confirmation letter was mailed to Carleton Andrew Chase McLain on January 16, 2004. Mr. McLain, who is entitled to the claim as the child and first next-of-kin of the decedent, is a minor. On June 1, 2004, a letter was sent to the claimant's attorney, James Logan, indicating that payment would not be made on Mr. McLain's claim until a copy of a Tennessee Court Approval of a minor settlement was obtained. No response has been received, and therefore the claim continues to be held.

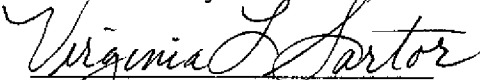
11. Amy Ward and Chad Little submitted claim forms with regard to decedent Marvin Ward in the Franklin-Strickland Funeral Home Settlement. A Confirmation letter was mailed to Chad Little on April 15, 2004, and was returned on April 26, 2004. Donald Strickland, Esq., on May 5, 2004, submitted a letter to Rust Consulting, Inc. declaring that, due to notice from Amy Ward's Counsel, we would be ill advised to disburse funds to Chad Little, since we had no proof of parentage. Further, that Chad Little was, at the time, incarcerated, and did not sign the claim form or affidavit that was allegedly submitted on his behalf by Sylvia Little-Scott. Additional documents provided for this claim are attached as Exhibit I. Rust Consulting continues to hold the claim.

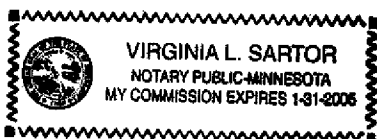
12. Carl Keener submitted a claim form with regard to decedent Ann M. Keener in the Ewton Funeral Home Settlement. The decedent's son, Terry Martin contacted Plaintiffs' Lead Counsel to dispute Mr. Keener's claim based on a concern that the claimant may not have actually been married to the decedent. A letter was sent to Mr. Keener to request that he provide proof of marriage and on September 21, 2004, an original Marriage Certificate was received. The claim for Mr. Keener was validated and a copy of the Marriage Certificate was forwarded to Mr. Martin. Mr. Martin has again contacted Plaintiffs' Lead Counsel to dispute Mr. Keener's claim. A copy of the Marriage Certificate is attached as Exhibit II. Rust Consulting continues to hold the claim.

I declare, under penalty of perjury, under the laws of the State of Minnesota, that the foregoing is true and correct to the best of my knowledge. Executed this 5th day of October 2004, in Faribault, Minnesota.

  
Kimberly K. Ness

Sworn and subscribed to before  
me this 5<sup>th</sup> day of October, 2004.

  
Notary Public



## Exhibit 1

IN THE COMMON PLEAS COURT OF MAHONING COUNTY, OHIO  
JUVENILE COURT

Sylvia J. Little  
and  
Ghad Little

COMPLAINANT

VS.

Marvin Ward

DEFENDANT

JUDGEMENT ENTRY

CASE NO. \_\_\_\_\_

## THE PROCEEDINGS

This cause was heard on the 10th day of December  
1984. Present were the Mahoning County Welfare Department.

## FINDINGS OF FACT

It is now found that both Complainant and Defendant, having waived their right to be served with summons and having waived a court appearance, have come to an agreement as to the amount of child support. It is further found that Defendant, Marvin Ward

\_\_\_\_\_ has admitted being the father of  
Ghad Little  
born 9-7-84

## CONCLUSIONS OF LAW

1. This Court has jurisdiction of the person and subject matter of this cause under the provisions of O.R.C. 2151.23 (B) (2).
2. The Court's dispositional authority is provided in O.R.C. 2151. and 3111.01 through .24.

Sylvia J. Little

PLAINTIFF

VS

Marvin Ward

DEFENDANT

A F F I D A V I T

I Marvin Ward, do hereby acknowledge that I am  
the father of the following minor child(ren).

Chad Little

, D.O.B. 9-7-84

, D.O.B. \_\_\_\_\_

, D.O.B. \_\_\_\_\_

, D.O.B. \_\_\_\_\_

, D.O.B. \_\_\_\_\_

DATED December 10, 1984

Marvin J. Ward  
DEFENDANT

WITNESSED:

Vivian Morgan

Sworn to and subscribed before me, a Notary Public, County of Mahoning,  
State of Ohio, this 10th day of December, 19 84.

Marietta Graham  
NOTARY PUBLIC

MARIETTA GRAHAM, Notary Public  
State of Ohio  
My Commission Expires Nov. 25, 1988

COMMISSION DATE

CASE NO. \_\_\_\_\_

VS.

Marvin Ward

### WAIVER OF SERVICE OF SUMMONS

Now comes the Marvin Ward and hereby  
Defendant  
voluntarily waives Service of Summons in the above-styled cause pursuant to Ohio Civil Rule  
4 (D) and further, by signing this Waiver, states that he is at least eighteen (18) years of  
age, not under any legal disability and has received a copy of the Complaint to Establish the  
Father-Child Relationship filed herein.

Marvin J. Ward  
DEFENDANT

### ANSWER

Now comes the Marvin Ward and for his  
Defendant  
Answer to the Complaint to Establish the Father-Child Relationship, receipt of which he  
hereby acknowledges, says that he has read the allegations contained in said Complaint  
and that he understands same, that he understands that he could be represented by an attor-  
ney but elects to represent himself, that he hereby admits that all the allegations of said  
Complaint are true and that he is the father of the minor child/children to wit: \_\_\_\_\_

Chad Little

Marvin J. Ward  
DEFENDANT

**ORDER**

IT IS HEREBY ORDERED THAT:

Marvin Ward, the putative father of the  
illegitimate child, born 9-7-84, pay the sum of  
\$ 100.00 per child for the support of said child to  
Sylvia J. Little, mother of the said illegitimate child,  
through the Bureau of Support of Mahoning County, Ohio in equal monthly  
installments of \$ 100.00 plus 2% poundage each, the first of which is due and payable  
on the upon employment day of 19 and  
subsequent payments will be due and payable on the and  
1st day of each calendar month thereafter and continuing until the fil-  
ing of an order of support for said child by any other Court of this State having jurisdiction  
so to do, or until further order of this Court, or until said child reaches the age of majority  
It is further ordered that Defendant pay all medical expenses incurred by complainant as a  
result of her pregnancy and eventual delivery of the illegitimate child and that said payments  
be made directly to the doctor and hospital which rendered the service.

The foregoing are now ordered by the Court this 10th day  
of December, 19 84.

APPROVED:

Marvin Ward  
Sylvia Little

Mark J. Jay  
JUDGE



Sylvia J. Little  
and  
Chad Little

COMPLAINANT

VS

Marvin Ward

DEFENDANT

SUPPLEMENTAL JUDGMENT ENTRY  
CASE NO.

IT IS FURTHER ORDERED THAT: the Department of Health, Division of Vital Statistics, Ohio Departments Building, Room G2, 65 South Front Street, Columbus, Ohio 43215, issue a birth certificate to reflect the establishment of the father-child relationship.

The Court finds that the Defendant is unemployed and without sufficient income to make support payments. Consequently, all support payments are suspended until the Defendant is employed or acquires a source of income at which time the Defendant is ordered to report, in writing, within ten (10) days of said event to the Mahoning County Welfare Department, IV-D Child Support Unit, 234 Federal Plaza West, Youngstown, Ohio 44503-1261 (PH: 747-2051).

The foregoing are now ordered by the Court this 10th day of December, 19 84.

APPROVED:

Marvin J. Ward  
Sylvia Little

Mark J. G...  
JUDGE

## IN THE COMMON PLEAS COURT OF MAHONING COUNTY, OHIO

## JUVENILE COURT

Sylvia J. Little  
and  
Chad Little

COMPLAINANT

VS

Marvin Ward

DEFENDANT

SUPPLEMENTAL JUDGEMENT ENTRY  
CASE NO.

IT IS FURTHER ORDERED THAT: said child(n)  
in the custody Sylvia J. Little  
order of the court.

That visitation is agreed to as specified in the Standard  
Order of Visitation attached to this journal entry.

The foregoing are now ordered by the Court this 10th day  
of December, 19 84.

APPROVED:

Marvin J. Ward  
Sylvia J. Little

Barry D. Fye  
JUDGE

## IN THE CIRCUIT COURT FOR HAMILTON COUNTY, TENNESSEE

SYLVIA SCOTT  
Petitioner

VS

MARVIN WARD  
Respondent

Docket No.: 94DR2747

Division: II

85 Juv / 160

ORDER

This cause came on to be heard upon a Petition filed pursuant to the Uniform Reciprocal Enforcement of Support Act of the State of Tennessee on the 5th day of December, 1994, before the Honorable Samuel H. Payne. The Court, being advised that the Respondent, Marvin Ward, is a recipient of S.S.I. benefits and as such shall not be Ordered to pay child support at the present time, does hereby DISMISS the URESA Petition at this time. The Respondent shall be required upon obtaining any additional income or the granting of Social Security Disability benefits to notify the undersigned Assistant District Attorney of any change in his benefit payments.

Entered this the 15 day of December, 1994.

5/ Samuel H. Payne  
CIRCUIT COURT JUDGE

APPROVED FOR ENTRY:

Kathy J. Clark  
Kathy J. Clark  
Assistant District Attorney  
Child Support Division  
1400 S. Holtzclaw Avenue  
Chattanooga, TN 37404  
(615) 493-9221

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Reasonable child support have been paid for the benefit of  
Chad Little since (his) (her) date of birth until present for  
which Defendant is liable.

WHEREFORE, Plaintiffs demand judgment for

1. The declaration of the existence of a father and child relationship between Chad Little  
Defendant;
2. The issuance of a new birth certificate to reflect the establishment of the father-  
child relationship;
3. An order requiring Defendant to pay the full amount of the reasonable exp  
relating to the mother's pregnancy and confinement;
4. An order requiring Defendant to pay a reasonable and periodic amount of mon  
the support of the minor child;
5. An order requiring Defendant to pay a reasonable and periodic amount of mon  
and for child support for the minor child from date of birth until the termination of the  
father-child relationship.

*Sylvia J. Little*

Sylvia J. Little  
87 Williamson  
Youngstown, OH 44507

STATE OF OHIO

COUNTY OF MAHONING

## AFFIDAVIT

I, Sylvia J. Little, being first duly sworn, depose and say that the allegations set forth in the attached complaint are true to the best of my knowledge and belief.

Sylvia Little  
AFFIANT

Sworn to and subscribed before me this 24th day of December, 1984.

Delores Brassfield  
NOTARY PUBLIC

DELORES L. BRASSFIELD, Notary Public

My Commission Expires July 13, 1985

DELORES L. BRASSFIELD, Notary Public  
State of Ohio  
My Commission Expires July 13, 1985

Chad Little**PATERNITY COMPLAINT**

PLAINTIFFS

VS.

Marvin Ward351 TacomaYoungstown, OHS.S. # 415-88-0903

DEFENDANT

1. Plaintiff Sylvia J. Little is the unmarried mother of Plaintiff Chad Little and both reside in Mahoning County, Ohio. Plaintiff Sylvia J. Little Defendant had sexual intercourse in the State of Ohio on or about 12-83 resulting in the conception of Chad Little who was born on 9-7-84

2. Defendant Marvin Ward is the father of Chad Little and owes (him) (her) a parental duty of support. Defendant has failed to legally acknowledge the existence of a father-child relationship between himself and Plaintiff Chad Little

3. Plaintiffs have been receiving support payments from the Mahoning County Welfare Department since 6-1-84

4. Reasonable expenses were incurred by the mother and/or the Welfare Department during the mother's pregnancy and confinement for which Defendant is liable.

Exhibit II

COPY

# MARRIAGE CERTIFICATE

STATE OF GEORGIA ANDRES COUNTY

This Certifies that CARL SYLVESTER and ANNIE MAE MARTIN were united in the

## HOLY BONDS OF MARRIMONY

by T.N. HOLCOMBE, JR., JUDGE, COURT OF ORDINARY, VALDOSTA, GEORGIA

on the 18th day of JULY, in the year of our Lord, 19 70

As appears of record in my office in Marriage Record Book FF

1970

JUDGE, COURT OF ORDINARY, VALDOSTA, GEORGIA